

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

DAVID RAYBORN

PLAINTIFF

V.

NO. 2:20-cv-85-KS-MTP

FEDEX FREIGHT, INC.

DEFENDANT

NOTICE OF REMOVAL TO FEDERAL COURT

Defendant, FedEx Freight, Inc. (hereinafter “FXF”) hereby removes this case from the Circuit Court of Forrest County, Mississippi to the United States District Court for the Southern District of Mississippi, Eastern Division. In support of this Notice, Defendant states:

1. Plaintiff’s complaint was filed in the Circuit Court of Forrest County, Mississippi, on December 23, 2019 and designated by Cause No.H19-0255.
2. Defendant was served with Plaintiff’s Complaint and Summons through its agent for service of process on April 9, 2020. Defendant is timely filing the present Notice of Removal within thirty (30) days of service as required by 28 U.S.C. §1446(b).
3. This lawsuit is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. §1441 (a), as the Complaint alleges claims which arise under the federal laws of the United States.
4. Plaintiff’s Complaint also alleges jurisdiction of this Court is proper pursuant to 28 U.S.C. §1331. *See* Complaint, ¶ 3.

5. In his Complaint, Plaintiff asserts claims under the Age Discrimination in Employment Act. *See* Complaint, ¶ 6. Consequently, this Court has federal question jurisdiction over this action pursuant to the provisions of 28 U.S.C. § 1441(c).

6. Pursuant to 28 U.S.C. § 1446(a), attached hereto as Exhibit “1” is Plaintiff’s Complaint together with all exhibits attached thereto; as Exhibit “2” is the Summons issued for Defendant from Circuit Court in Harrison County, Mississippi, as Exhibit “3” is the Notice of Service of Process Transmittal from CT Corporation. These documents comprise the entire file of the Circuit Court of Harrison County, Mississippi for this matter and all documents and process served upon Defendant.

7. In accordance with the requirements of 28 U.S.C. § 1446(d), upon filing this Notice, Defendants have given written notice to Plaintiff and the Clerk of the Circuit Court of Harrison County, Mississippi by furnishing to each a copy of this Notice and all attachments hereto. A copy of the Notice of Filing Notice of Removal is attached hereto as Exhibit “4.”

WHEREFORE, Defendant hereby removes this action to the United States District Court for the Southern District of Mississippi, Eastern Division.

This the 8th day of May, 2020.

Respectfully submitted,

/s/ M. Kimberly Hodges

M. Kimberly Hodges (MS Bar No. 100276)

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I, the undersigned counsel certify that a copy of the foregoing is being served on counsel for the Plaintiff and Harrison County Circuit Court, MS, as follows:

Served this day by United States mail, first class postage prepaid

Daniel M. Waide, (MSB#103543)
1300 Hardy St.
PO Box 17738
Hattiesburg, MS 39404

Gwen Wilks
Circuit Court Clerk
Forrest County Circuit Court
630 Main Street
Hattiesburg, MS 39401

Served this day by FedEx overnight delivery

This the 8th day of May 8, 2020.

/s/ M. Kimberly Hodges
M. KIMBERLY HODGES